

## REMARKS

In the patent application, claims 1, 2, 4, 5, 7-11, 13, 15-17, 20-25, 27, 29, 31 and 33-37 are pending.

In the office action, all pending claims are rejected.

Applicant has canceled claims 29 and 36, and amended claims 27, 33 and 34.

Claim 27 has been amended to include the limitation of claim 29, and claim 34 has been amended to include the limitation of claim 36. Claim 33 has been amended to change the claim dependency.

No new matter has been introduced.

At section 4 of the office action, claims 27, 31, 34 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by *Hannuksela et al.* (U.S. Patent Application Publication No. 2002/0105951 A1, hereafter referred to as *Hannuksela*).

Applicant has amended claims 27 and 34 to include the limitation of claims 29 and 36, respectively. Claims 29 and 36 are only rejected under 35 U.S.C. 103(a) as being unpatentable over *Hannuksela*, in view of *Harumoto et al.* (U.S. Patent Application Publication No. 2002/0004840, hereafter referred to as *Harumoto*).

Claim 31 is dependent from claim 27, and claim 35 is dependent from claim 34. Thus, claims 27, 31, 34 and 35 are only subject to the rejection under 103(a) over *Hannuksela*, in view of *Harumoto*.

At section 6, claims 1-2, 4-5, 7-11, 13, 15-17, 20-25, 29, 33 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Hannuksela*, in view of *Harumoto*.

In rejecting those claims, the Examiner admits that *Hannuksela* fails to disclose estimating packet stream transfer delay variation and estimating parameters of a jitter buffer based on the packet steam transfer delay variation, but points to *Harumoto* for disclosing those limitations.

Applicant has canceled claims 29 and 36 and incorporated the limitations in claims 29 and 36 into claims 27 and 34.

It is respectfully submitted that the present application was filed on July 16, 2003, claiming benefit of the filing date of a U.S. Provisional Application Serial No. 60/396,920, filed July 16, 2002. *Hannuksela* was filed on February 8, 2002, claiming priority to a Finish patent application with a filing date of February 8, 2001. *Hannuksela* was published on August 8, 2002. *Hannuksela* is only available against the present application as a reference under 35 U.S.C. §102(e), and under §103(c) subject matter developed by another person, which only qualifies as prior art under §102(e), shall not preclude patentability under §103 where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. Therefore, applicant hereby submits the following statement of common ownership:

*The present application 10/623,133 and Application No. 2002/0105951 A1 were, at the time of the invention of application 10/623,133 was made, owned by or subject to an obligation of assignment to Nokia Corporation.*

Therefore, since the Examiner acknowledges that *Hannuksela* does not disclose all of the limitations recited in claims 1-2, 4-5, 7-11, 13, 15-17, 20-25, 29, 33 and 36-37, and *Hannuksela* is not available as a reference, claims 1-2, 4-5, 7-11, 13, 15-17, 20-25, 27, 31, 33-35 and 37 are not disclosed or suggest by the cited references.

## CONCLUSION

Claims 1-2, 4-5, 7-11, 13, 15-17, 20-25, 27, 31, 33-35 and 37 are allowable. Early allowance of claims 1-2, 4-5, 7-11, 13, 15-17, 20-25, 27, 31, 33-35 and 37 is earnestly solicited.

Respectfully submitted,



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